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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,612	07/14/2005	Yukio Kakita	IS-US020389	6667
22919	7590	09/21/2006	EXAMINER	
GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680				DESAI, HEMANT
ART UNIT		PAPER NUMBER		
				3721

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/522,612	KAKITA ET AL.	
	Examiner Hemant M. Desai	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 July 2005.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/28/05.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 7-8, 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent (JP 4-072160).

Japanese Patent ('160) discloses a packaging apparatus and method for manufacturing a package wherein an article to be packaged and an inert gas are sealed in a packaging material, comprising an introducing units through which the article (4, fig. 2) to be packaged and the gas are supplied to the packaging material formed in a tubular shape (see fig. 2), and a first sealing mechanism (14, fig. 2) that seals the tubular packaging material to manufacture a package containing the article and the gas, the gas having a temperature lower than that of the outside air when the first sealing mechanism seals the tubular package material, which meets all the claimed limitations.

Regarding claims 2, 7 and 8, Japanese Patent discloses that the gas is cooled to a temperature lower by at least 5° C than ambient temperature. Therefore the temperature-modifying unit is an inherent part of the invention.

Regarding claim 10, Japanese Patent discloses that a transporting unit that transports the tubular packaging material downward, and a second sealing unit (13, fig. 2) that seals a longitudinal edge of the tubular packaging material, the longitudinal edge

being parallel to the transport direction of the transported flexible packaging material, the direction in which the first sealing mechanism (14) seals the tubular packaging material is perpendicular to the transport direction.

Regarding claim 11 and 12, Japanese Patent, as mentioned above, discloses all the claimed limitations of claims 11 and 12.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent (JP 4-072160) in view of Paltrinieri (5546733).

Japanese Patent ('160), as mentioned above, discloses all the claimed limitations, except for changing the gas temperature by sensing the various parts of the filling machine. However, Paltrinieri teaches a device (15-17, fig. 2) to control the feeder device (12, fig. 2). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the temperature control device as taught by Paltrinieri in the apparatus and method of Japanese Patent ('160) to control the gas temperature modifying unit.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent (JP 4-072160) in view of Tsuruta (6729108).

Japanese Patent ('160), as mentioned above, discloses all the claimed limitations, except for a pair of smoothing parts. However, Tsuruta teaches a pair of smoothing parts (50, figs. 6 and 8) for preventing wrinkles and sags in the area heat sealed by the sealing mechanism (see col. 9, lines 60-65). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pair of smoothing parts as taught by Tsuruta in the apparatus and method of Japanese Patent ('160) to prevent wrinkles and sags in the area heat sealed by the sealing mechanism.

6. Claims 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent (JP 4-072160) in view of Nolfi, Jr. (6843037).

Japanese Patent ('160), as mentioned above, discloses all the claimed limitations, except for post-processing on the manufactured package by elevating the temperature. However, Nolfi, Jr. teaches to post-processing package by elevating temperature (see figs. 1 and 4) to assure sterility of the packaged product (see col. 8, lines 64-67). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the post-processing on the manufactured package by elevating the temperature as taught by Nofi, Jr. in the apparatus and method of Japanese Patent ('160) to assure sterility of the packaged product.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M. Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 6:30 AM-5:00 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Hemant M. Desai*

Hemant M Desai  
Examiner  
Art Unit 3721

HMD